

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 689

(Delegate McComas)

Health and Government Operations

Finance

**Mental Health - Assent to and Certificates for Admission - Licensed Certified
Social Worker-Clinical and Licensed Clinical Professional Counselor**

This bill authorizes a licensed certified social worker-clinical (LCSW-C) or a licensed clinical professional counselor (LCPC), in conjunction with a physician, to (1) certify an individual for involuntary admission to a facility or a Veterans' Administration (VA) hospital and (2) assent to the voluntary admission of a minor to the child or adolescent unit of a State facility. The bill also makes conforming changes.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: The bill does not directly affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law:

Involuntary Admission Process

Under the Health-General Article, application for the involuntary admission of an individual to a facility or VA hospital may be made by any person who has a legitimate interest in the welfare of the individual. However, before the Division of Correction or the Patuxent Institution makes an application regarding an inmate in its institution, the Behavioral Health Administration (BHA) must first agree to pay the appropriate expenses.

A “facility” is defined as any public or private clinic, hospital, or other institution that provides or purports to provide treatment or other services for individuals who have mental disorders.

An application for the involuntary admission of an individual to a facility or VA hospital for the treatment of a mental disorder must (1) be in writing; (2) be dated; (3) be on the required form of BHA or the VA; (4) state the relationship of the applicant to the individual for whom admission is sought; (5) be signed by the applicant; (6) be accompanied by the certificates of either one physician and one psychologist, two physicians, or one physician and one psychiatric nurse practitioner; and (7) contain any other information that BHA requires.

A physician’s, psychologist’s, or psychiatric nurse practitioner’s certificate for the involuntary admission of an individual must be based on the personal examination of the physician, psychologist, or psychiatric nurse practitioner who signs the certificate. A certificate may not be used for admission if the examination was done more than one week before the certificate was signed or more than 30 days before the facility or the VA hospital received the application for admission. Likewise, a certificate of admission may not be used if the physician, psychologist, or psychiatric nurse practitioner who signed the certificate either has a financial interest in the proprietary facility in which the individual’s admission is sought or is related by blood or marriage to the individual or to the applicant. The physician’s, psychologist’s, or psychiatric nurse practitioner’s certificate must contain specified information, including (1) a diagnosis of a mental disorder of the individual; (2) an opinion that the individual needs inpatient care or treatment; and (3) an opinion that admission to a facility or VA hospital is needed for the protection of the individual or another.

The Maryland Department of Health (MDH) must receive an individual who has been certified by a physician, psychologist, or psychiatric nurse practitioner within 12 hours of receiving notice of a certification, if four specified conditions are met: (1) the individual’s involuntary admission is not limited by § 10-617 of the Health-General Article (see below); (2) an application for admission has been completed; (3) a certifying physician, psychologist, or psychiatric nurse practitioner is unable to place the individual in a facility not operated by MDH; and (4) MDH is unable to provide for the placement of the person other than in a facility operated by MDH.

The limitations under § 10-617 of the Health-General Article include that a facility or VA hospital may not admit the individual unless (1) the individual has a mental disorder; (2) the individual needs inpatient care or treatment; (3) the individual presents a danger to the life or safety of the individual or others; (4) the individual is unable or unwilling to be admitted voluntarily; and (5) there is no available, less restrictive form of intervention that

is consistent with the welfare and safety of the individual. Additional restrictions apply if the individual is 65 or older.

Voluntary Admission of a Minor for the Treatment of a Mental Disorder

A parent or guardian may apply, on behalf of a minor, for the minor's voluntary admission to (1) any facility that is not a State facility; (2) a regional institute for children and adolescents; and (3) the child or adolescent unit of a State facility for the treatment of a mental disorder. A facility may not admit an individual unless:

- the individual has a mental disorder;
- the mental disorder is susceptible to care or treatment;
- the applicant understands the nature of a request for admission; and
- specified health care professionals assent to the admission, including for a child or adolescent unit of a State facility (1) a physician and psychologist; (2) two physicians; or (3) a physician and psychiatric nurse practitioner.

Licensed Certified Social Worker-Clinical

An LCSW-C is an individual licensed by the State Board of Social Work Examiners to "practice clinical social work," which means to use specialized education, training, and experience to practice social work, including the additional activities of supervising other social workers; evaluation, diagnosis, and treatment of biopsychosocial conditions, mental and emotional conditions and impairments, and behavioral health disorders, including substance use disorders, addictive disorders, and mental disorders; petitioning for emergency evaluation; and the provision of psychotherapy.

An applicant for licensure as an LCSW-C must have received a master's degree from an accredited program and provide documentation of having completed two years as a licensee with supervised experience of at least 3,000 hours after receiving the master's degree – with at least 144 hours of periodic face-to-face supervision in the assessment, formulation of a diagnostic impression, and treatment of mental disorders and other conditions and the provision of psychotherapy.

Licensed Clinical Professional Counselor

An LCPC is an individual licensed by the State Board of Professional Counselors and Therapists to "practice clinical professional counseling," which means to engage professionally and for compensation in counseling and appraisal activities by providing services involving the application of counseling principles and methods in the diagnosis,

prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

An applicant for licensure as an LCPC must have (1) received a master's or doctoral degree in a professional counseling field from an accredited institution approved by the board; (2) provided documentation of completion of specified graduate course work in specific areas of study; (3) provided documentation of completion of two years (for a doctoral-level applicant) or three years (for a master's-level applicant) of supervised experience; (4) passed the National Counselors Examination of the National Board for Certified Counselors, Inc.; and (5) passed an examination given by the board.

Additional Information

Prior Introductions: HB 1387 of 2020, a similar bill, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Designated Cross File: SB 466 (Senator West) - Finance.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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